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SUBJECT: COSTA RICA (FINALLY) CLOSING IN ON CAFTA

REF: SAN JOSE 593

¶1. (SBU) SUMMARY: CAFTA is nearing the finish line in Costa Rica. Three implementing bills were completed during July. That will bring to eleven the total completed by the legislature, with only two (on amendments and IPR & catch-all issues) remaining. The GOCR (and we) are confident these final items will become law by mid-September, and that relevant regulations will be completed then, if not sooner. Pro-CAFTA legislators attribute the success to improved cooperation inside the G38 coalition, the willingness of independent legislators to keep things moving, and a tired opposition who wants to move beyond CAFTA. Lest we sound too optimistic, we are also quietly making it very clear that the GOCR should not/not fiddle around with last-minute issues or rest on its laurels. Even without further hiccups, the GOCR is not likely to finish all legislation and regulations until shortly before the (extended) October 1 EIF deadline. END SUMMARY.

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ELEVEN DOWN, . . .  
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¶2. (U) Since AUSTR Everett Eissenstat's visit in late-June (Reftel), CAFTA implementing legislation has steadily moved ahead in the Asamblea, even beating the GOCR's projected deadlines in some instances:

-- The law opening the insurance market was approved on July 1, signed by President Arias in a public ceremony on July 22, and only awaits publication in the national gazette to become law;

-- The controversial IPR enforcement bill (Observancias) was approved on July 7 (without having to undergo a 2nd review by the Constitutional Court). It is awaiting signature and publication; and

-- The telecommunications bill was approved by the Constitutional Court on July 16, and approved by the required 2nd Asamblea vote on July 29.

This will bring to eleven the total number of implementation bills completed by the Asamblea, with three finished in July alone, a monthly record for the CAFTA process.

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. . . TWO TO GO.  
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¶3. (U) Two bills remain to be completed:

-- The amendments bill, which was approved by first vote on July 22 and sent to the Constitutional Court for review on July 25. (Court review is required in this case, since the

amendments are modifying an international agreement.) Assuming no problems (and none are expected with this straight-forward legislation), the bill should be returned and approved by a 2nd vote in August; and

-- The controversial and complex IPR & catch-all bill (No. 12), which is under discussion in the Plenary. Using double daily sessions to complete the 22 sessions permitted under applicable fast-track rules, and assuming that biodiversity issues added to this bill are completely acceptable (as we believe they are), the GOCR is aiming for a 1st vote by mid-August, in time for an (expected) Court review and 2nd vote by mid-September. This bill is the & long pole in the CAFTA tent.

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THE COALITION IS CONFIDENT  
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¶4. (SBU) Pro-CAFTA G38 coalition leaders sound as confident as we have ever heard them (and a bit relieved) that full CAFTA implementation seems close. PLN faction chief Oscar Nunez and his PUSC counterpart Lorena Vasquez point to better cooperation among most coalition members, the availability and willingness of independent members (especially ex-PAC member Andrea Morales, now dating Nunez) to ensure that quorums are met and the bills keep moving, and a generally tired opposition who wants to move on. Separately, PAC Faction Chief Francisco Molina acknowledged this last point to us. In addition, meeting with the Ambassador on July 24, the editorial board of leading daily La Nacion underscored their confidence that CAFTA was virtually complete. (They, in fact, optimistically predict that all remaining legislation may be done by the end of August.)

¶5. (SBU) Nunez adds that even die-hard CAFTA-opponent and wily legislative tactician Jose Merino (of the hard left FA faction) had offered only a few motions to remaining legislation & just for show. Both Nunez and Vasquez point to intra-coalition problems as still troubling, particularly with the five-member Libertarian faction, but the group is cooperating at the moment. Vasquez, who had expressed serious concerns during the AUSTRI visit about biodiversity issues, is now satisfied with the agreements reached between USTR and the Ministry of Foreign Trade (COMEX) on that issue. She adds that COMEX cooperation with the Asamblea is much more fluid and effective now.

¶6. (SBU) Vasquez and Nunez also well understand that the GOCR does not have until September 30 to complete its work and be certified for EIF by the October 1 deadline. They are pushing their troops (and the Executive) to keep moving. Nunez opined that even the Constitutional Court may move a little faster, aware of the deadline. He said he would encourage Minister of the Presidency Rodrigo Arias (whose office has extensive informal contacts with the Court) to urge swift review of both the pending bills. The Amendments bill, for example, may take only 2-3 weeks for the Court to review (instead of the full 30 days permitted). Both faction leaders note, however, that the IPR catch-all bill (a) will probably be sent to the Court for review, even though it is not technically required, and (b) is complex and controversial enough to probably require a full 30-day review period.

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COMMENT  
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¶7. (SBU) Lest all this sound uncharacteristically optimistic, we remind our readers that this saga ain't quite over, but we are almost there. The GOCR and pro-CAFTA legislators sound (and act) confident and the Asamblea has made (for them) extraordinary efforts (which we would love to see set a precedent for other important initiatives). To have passed any thirteen bills, but especially the CAFTA thirteen, in & just ten months is a near-historic accomplishment for the Costa Rican legislature. More importantly, even the

opposition is tired and wants to move on to life post-CAFTA. We are convinced (at last) that CAFTA will be completed here. However, we are quietly making it very clear that given the helpful USG position on the state guarantee issue affecting insurance (which has precluded the need for additional legislation), the GOCR should not/not fiddle around with other issues. Even without further substantive hiccups, the GOCR is not likely to finish all legislation and regulations until September, in keeping with the Tico last-minute style.

CIANCHETTE